IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No.382 of 2006

Decided on: September 5, 2006

Grinju **.....Appellant.**

VERSUS

State of H.P. **.....Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. K.D. Sood, Advocate.

For the respondent : Nemo.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Appellant-plaintiff Grinju filed a suit claiming that 20 *Kanals* 19 *Marlas* land had been granted by way of *Nautor* to him under the notification of 11th September, 1948, whereby Kangra Nautor Rules were notified. He claimed that the grant was made sometime in the year 1971 and mutation had also been sanctioned but by mistake the area was recorded as 10 *Kanals* 12 *Marlas* in the mutation order as also in the revenue papers and that taking advantage of the wrong area having been recorded in the mutation and the revenue papers, the field staff of Revenue Department had started claiming that the rest of the area belonged to the State. He sought a declaration that he was owner of 20 *Kanals* 19 *Marlas* area, bearing Khasra Nos. 1372/428 (measuring 10 *Kanals* 12 *Marlas*), 1418/655 (measuring 2 *Kanals* 16 *Marlas*) and 1371/428 (measuring 7 *Kanals* 11 *Marlas*).

3. Suit was contested and it was alleged that only 10 *Kanals* 12 *Marlas* land, bearing Khasra No.1372/428, had been granted to the

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Whether the reporters of the local papers may be allowed to see the judgment?

appellant-plaintiff and that rest of the land belonged to the Government and it was in its possession.

4. The trial Court returned the finding that the entire land measuring 20 *Kanals* 19 *Marlas* had been allotted to the plaintiff and the suit was accordingly decreed. In appeal, the District Judge has reversed the decree and held that only 10 *Kanals* 12 *Marlas* land, bearing Khasra No.1372/428, had been granted to the appellant-plaintiff. The learned District Judge has found that the appellant-plaintiff is in possession of the remaining land also, but without any title, and that his possession be not disturbed, except by due process of law.

5. Appellant's grievance is that the learned District Judge ought not to have modified the finding of the trial Court. According to him, the entire area of the suit land, measuring 20 *Kanals* 19 *Marlas,* had been granted to the plaintiff and, therefore, declaration in respect of the entire area was required to be granted in favour of the appellant-plaintiff.

6. I have been taken through the record by the learned counsel appearing for the appellant. The record does not substantiate the claim of the plaintiff that 20 *Kanals* 19 *Marlas* land had been granted to the plaintiff under the Nautor Rules of Kangra. The document, upon which the claim of the appellant is based, is an order of the Deputy Commissioner, dated 22nd February, 1972 (Ex. PW-4/N). A reading of the order shows that the plaintiff was not granted any land through this order. The order shows that the Deputy Commissioner was approached for granting permission for breaking 20 *Kanals* 19 *Marlas* land, which at that time belonged to the Panchayat. The Deputy Commissioner, on the recommendation of the Divisional Forest Officer and the Panchayat, granted that permission. A copy of the order was sent to the Panchayat and the Panchayat was permitted to lease out the land, permitted to be broken, i.e. 20 *Kanals* 19 *Marlas*, for cultivation purpose. There is no reference in this order, even by

implication, that the land was to be granted, under Nautor Rules, to the appellant-plaintiff. Not only this, even there is no reference that it was to be leased out by the Panchayat to the plaintiff-appellant.

7. For the foregoing reasons, I find no merit in the appeal. In any case, no substantial question of law is involved. Hence, the appeal is dismissed.

CMP No.729/2006

Infructuous.

September 5, 2006(sd) **(Surjit Singh), J.**